

IN THE UNITED STATES DISTRICT COURT  
FOR THE DISTRICT OF MONTANA  
HELENA DIVISION

**FILED**  
SEP 15 2016  
Clerk, U.S. District Court  
District Of Montana  
Missoula

SHAWN HOWARD WELLER,

Petitioner,

vs.

STATE OF MONTANA,

Respondent.

CV 16-60-H-DLC-JTJ

ORDER

This case comes before the Court on Petitioner Shawn Howard Weller's ("Weller") Motion for Extension of Time to file his petition for a writ of habeas corpus under 28 U.S.C. § 2254. The Court adopts Magistrate Judge John T. Johnston's Findings and Recommendations to dismiss this case without prejudice and open a new case once Weller files his habeas petition. Weller has since filed his petition and this Court opened a new case under CV 16-65-H-DLC-JTJ.

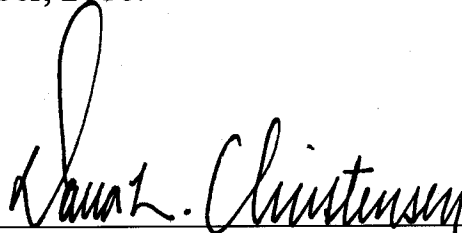
Accordingly, IT IS ORDERED that Judge Johnston's Findings and Recommendations (Doc. 2) are ADOPTED IN FULL. Weller's Motion for Extension of Time (Doc. 1) is DENIED and this case is DISMISSED without prejudice.

IT IS FURTHER ORDERED that the Clerk of Court is directed to enter, by

separate document, a judgment of DISMISSAL.

IT IS FURTHER ORDERED that a certificate of appealability is DENIED.

DATED this 15<sup>th</sup> day of September, 2016.

A handwritten signature in black ink, reading "Dana L. Christensen". The signature is written in a cursive style with a large, looping initial "D".

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Dana L. Christensen, Chief Judge  
United States District Court